



## DEPARTMENT OF AGRICULTURE

### Federal Crop Insurance Corporation

#### 7 CFR Parts 407 and 457

[Docket ID FCIC-22-0004]

RIN 0563-AC79

### Crop Insurance Reporting and Other Changes (CIROC)

**AGENCY:** Federal Crop Insurance Corporation, U.S. Department of Agriculture (USDA).

**ACTION:** Final rule with request for comments.

**SUMMARY:** The Federal Crop Insurance Corporation (FCIC) is amending its regulations to enhance production reporting terminology and assist producers with production reporting requirements. The amendments will provide alternative production reporting options to producers who are unable to provide disinterested third-party verifiable records to support their production report because the producer or a related person generates the supporting records (acceptable production records). FCIC is also clarifying the good farming practice appeal deadline (appeals and arbitration) and clarifying and correcting portions of the policy (clarifications and corrections). The changes to the crop insurance policies resulting from the amendments in this rule are applicable for the 2023 and succeeding crop years for crops with a contract change date on or after June 30, 2022. For all other crops, the changes to the policies made in this rule are applicable for the 2024 and succeeding crop years.

**DATES:** *Effective date:* This final rule is effective June 30, 2022.

*Comment date:* We will consider comments that we receive by the close of business [Insert date 60 days after date of publication in the *FEDERAL REGISTER*]. FCIC may consider the comments received and may conduct additional rulemaking based

on the comments.

**ADDRESSES:** We invite you to submit comments on this rule. You may submit comments by going through the Federal eRulemaking Portal as follows:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov> and search for Docket ID FCIC-22-0004. Follow the instructions for submitting comments.

All comments will be posted without change and will be publicly available on [www.regulations.gov](http://www.regulations.gov).

**FOR FURTHER INFORMATION CONTACT:** Francie Tolle; telephone (816) 926-7829; or email [francie.tolle@usda.gov](mailto:francie.tolle@usda.gov). Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720-2600 (voice) or (844) 433-2774 (toll-free nationwide).

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

FCIC serves America's agricultural producers through effective, market-based risk management tools to strengthen the economic stability of agricultural producers and rural communities. FCIC is committed to increasing the availability and effectiveness of Federal crop insurance as a risk management tool. Approved Insurance Providers (AIPs) sell and service Federal crop insurance policies in every state through a public-private partnership. FCIC reinsures the AIPs who share the risks associated with catastrophic losses due to major weather events. FCIC's vision is to secure the future of agriculture by providing world class risk management tools to rural America.

Federal crop insurance policies typically consist of the Basic Provisions, the Crop Provisions, the Special Provisions, the Commodity Exchange Price Provisions, if applicable, other applicable endorsements or options, the actuarial documents for the insured agricultural commodity, the Catastrophic Risk Protection Endorsement, if applicable, and the applicable regulations published in 7 CFR chapter IV. Throughout

this rule, the terms “Crop Provisions,” “Special Provisions,” and “policy” are used as defined in the Common Crop Insurance Policy (CCIP) Basic Provisions in 7 CFR 457.8. Additional information and definitions related to Federal crop insurance policies are in 7 CFR 457.8.

Through this rule, FCIC amends the Area Risk Protection Insurance (ARPI) Basic Provisions (7 CFR part 407), CCIP Basic Provisions (7 CFR 457.8), in addition to specific crop insurance policies that are in the regulations. Throughout this rule, as the changes are explained and the specific crop insurance policies are mentioned for the specific changes, they are listed in alphabetical order by crop insurance policy name, which is also the section title in the regulations. Typically, in a rule, the sections of the regulations would be addressed in numerical order; however, due to the extensive range of crop insurance policies that this rule includes, for readers to find the information of relevance, the alphabetical order will be helpful. The range of crop insurance policies and the order in which they are listed is as follows:

- Arizona-California Citrus Fruit Crop Insurance Provisions (7 CFR 457.121);
- Blueberry Crop Insurance Provisions (7 CFR 457.166);
- Cabbage Crop Insurance Provisions (7 CFR 457.171);
- California Avocado Crop Insurance Provisions (7 CFR 457.175);
- Cranberry Crop Insurance Provisions (7 CFR 457.132);
- Florida Avocado Crop Insurance Provisions (7 CFR 457.173);
- Forage Production Crop Insurance Provisions (7 CFR 457.117);
- Fresh Market Pepper Crop Insurance Provisions (7 CFR 457.148);
- Fresh Market Sweet Corn Crop Insurance Provisions (7 CFR 457.129);
- Fresh Market Tomato Dollar Plan Crop Insurance Provisions (7 CFR 457.139);

- Guaranteed Production Plan of Fresh Market Tomato (7 CFR 457.128);
- Macadamia Nut Crop Insurance Provisions (7 CFR 457.131);
- Onion Crop Insurance Provisions (7 CFR 457.135);
- Peach Crop Insurance Provisions (7 CFR 457.153);
- Pear Crop Insurance Provisions (7 CFR 457.111);
- Pecan Revenue Crop Insurance Provisions (7 CFR 457.167);
- Prune Crop Insurance Provisions (7 CFR 457.133);
- Stonefruit Crop Insurance Provisions (7 CFR 457.159);
- Table Grape Crop Insurance Provisions (7 CFR 457.149); and
- Texas Citrus Crop Insurance Provisions (7 CFR 457.119).

The changes to the crop insurance policies resulting from the amendments in this rule are applicable for the 2023 and succeeding crop years for crops with a contract change date on or after June 30, 2022. For all other crops, the changes to the crop insurance policies resulting from the amendments in this rule are applicable for the 2024 and succeeding crop years.

### **Acceptable Production Records**

FCIC is increasing flexibility for acceptable production records to make it easier for producers whose production records are not available from a disinterested third party to provide the supporting records needed to obtain insurance, report their annual production, and file a claim. FCIC is amending the Area Risk Protection Regulations (7 CFR 407.9), Common Crop Insurance Regulations (7 CFR 457.8), and 20 Crop Provisions to implement these changes.

Prior to this rule, FCIC generally required records from disinterested third parties (for example, sales record to an unrelated entity), or AIPs conducted preharvest appraisals as a supporting production record. However, some producers do not have disinterested third-party records which includes producers who sell their production

directly to consumers (direct marketing) and producers who do not have disinterested third-party records because they, or a person related to them, generate the supporting records (for example, vertically integrated). In response to these issues, FCIC is amending production reporting terminology to simplify recordkeeping requirements and procedures for those producers who do not have disinterested third-party records available to them. These changes will also make the terminology and procedures consistent across policies.

The producer will self-identify that they will not have disinterested third-party records available, which will encourage a discussion with the AIP as to what records the producer does have that will meet production reporting requirements. The producer may be permitted to use their own records, or, in limited situations, request a pre-harvest appraisal. Generally, producers are required to use their actual production records. However, if their records are not at an acceptable level of detail needed for production reporting (for example, traceable back to the unit), RMA procedures outline criteria that would allow the producer to request an appraisal to supplement the producers' records. For example, producers who direct market their crop may request a pre-harvest appraisal, to use in conjunction with their acceptable production records, to allocate production to the applicable APH database or when the AIP determines the producer's final disposition records do not contain all information required for production reporting by APH database.

In certain situations, appraisals may be used, in lieu of harvested production, to adjust a claim, as outlined in the CCIP Basic Provisions, paragraph 15(b)(3). If the producer's harvested production is less than the appraised production, and they harvest the crop after the end of the insurance period, their appraised production will be used unless they can prove that no additional causes of loss or deterioration of the crop occurred after the end of the insurance period.

However, if they harvest the crop before the end of the insurance period, their harvested production will be used (1) unless the applicable Crop Provisions require an appraisal prior to harvest and they are unable to prove that additional insured causes of loss occurred after the appraisal or deterioration of the crop can be attributed to an insurable cause of loss after the appraisal was completed; then the producer's appraised production will be used; or (2) if the producer intends to direct market their crop or their production records will not be from a disinterested third party and the AIP determines an appraisal prior to harvest was necessary and they are unable to prove that additional insured causes of loss occurred after the appraisal or deterioration of the crop can be attributed to an insurable cause of loss after the appraisal was completed; then their appraised production will be used.

The changes in this rule are intended to assist producers with production reporting requirements when producers do not have disinterested third-party records available and to reduce the need for AIPs to conduct pre-harvest appraisals, which were previously used in lieu of disinterested third-party records. Several terms that were defined in various Crop Provisions, procedures, or administrative regulations, will now be defined in the ARPI Basic Provisions and CCIP Basic Provisions.

The changes to the Crop Provisions are as follows:

FCIC is removing the definition of "direct marketing" from individual Crop Provisions. As a result of this change, there will be only one definition of "direct marketing" in the Basic Provisions. This will reduce redundancy and eliminate potential conflicts between the CCIP Basic Provisions and the individual Crop Provisions. This change occurs in the following Crop Provisions:

- Arizona-California Citrus Fruit Crop Insurance Provisions (7 CFR 457.121);
- Blueberry Crop Insurance Provisions (7 CFR 457.166);

- Cabbage Crop Insurance Provisions (7 CFR 457.171);
- California Avocado Crop Insurance Provisions (7 CFR 457.175);
- Florida Avocado Crop Insurance Provisions (7 CFR 457.173);
- Forage Production Crop Insurance Provisions (7 CFR 457.117);
- Fresh Market Pepper Crop Insurance Provisions (7 CFR 457.148);
- Fresh Market Sweet Corn Crop Insurance Provisions (7 CFR 457.129);
- Guaranteed Production Plan of Fresh Market Tomato Crop Insurance Provisions (7 CFR 457.128);
- Macadamia Nut Crop Insurance Provisions (7 CFR 457.131);
- Onion Crop Insurance Provisions (7 CFR 457.135);
- Peach Crop Insurance Provisions (7 CFR 457.153);
- Pear Crop Insurance Provisions (7 CFR 457.111);
- Prune Crop Insurance Provisions (7 CFR 457.133);
- Stonefruit Crop Insurance Provisions (7 CFR 457.159);
- Table Grape Crop Insurance Provisions (7 CFR 457.149); and
- Texas Citrus Crop Insurance Provisions (7 CFR 457.119).

Two Crop Provisions will retain the definition of “direct marketing” with the clarifying statement “In addition to the definition contained in section 1 of the Basic Provisions,” added. This change clarifies that the definition in the Crop Provisions does not override the definition in the Basic Provisions, but rather is intended to be used together. The change appears in:

- Fresh Market Tomato Dollar Plan Crop Insurance Provisions (7 CFR 457.139); and
- Pecan Revenue Crop Insurance Provisions (7 CFR 457.167).

FCIC is correcting the producer’s notification requirement for any production intended for direct marketing to apply 15 days prior to harvest, rather than 15 days prior

to the sale. Currently, the deadline for notification attaches to the date of sale, which may not allow an AIP an opportunity to conduct an in-field (pre-harvest) appraisal. This change will require the producer to notify the AIP at least 15 calendar days before the crop is harvested, which allows for the AIPs to conduct pre-harvest appraisals. This change is being made in the following Crop Provisions:

- Arizona-California Citrus Fruit Crop Insurance Provisions (7 CFR 457.121);
- Blueberry Crop Insurance Provisions (7 CFR 457.166);
- California Avocado Crop Insurance Provisions (7 CFR 457.175);
- Florida Avocado Crop Insurance Provisions (7 CFR 457.173);
- Forage Production Crop Insurance Provisions (7 CFR 457.117);
- Fresh Market Sweet Corn Crop Insurance Provisions (7 CFR 457.129);
- Macadamia Nut Crop Insurance Provisions (7 CFR 457.131);
- Onion Crop Insurance Provisions (7 CFR 457.135);
- Peach Crop Insurance Provisions (7 CFR 457.153);
- Pear Crop Insurance Provisions (7 CFR 457.111);
- Pecan Revenue Crop Insurance Provisions (7 CFR 457.167);
- Prune Crop Insurance Provisions (7 CFR 457.133);
- Stonefruit Crop Insurance Provisions (7 CFR 457.159);
- Table Grape Crop Insurance Provisions (7 CFR 457.149); and
- Texas Citrus Crop Insurance Provisions (7 CFR 457.119).

### **Appeals and Arbitration**

FCIC is adding the good farming practice appeal deadline to paragraph 23(b) of the ARPI Basic Provisions (7 CFR part 407) and paragraph 20(d) of the CCIP Basic Provisions (457.8). This change will ensure that producers are aware of the deadline to



file an appeal of a good farming practice determination from the AIP. Currently, the deadline (30 days) is only contained in the administrative regulation, Subpart J, and procedural handbooks that are not provided to the producer because they are not part of the contract between the insured producer and the AIP. This is not a procedural change, but a change to provide a clear deadline within the policy. FCIC has had producers request an appeal to a good farming practice determination outside the timeframe for which they can request an appeal. The change reduces confusion with other types of appeal rights within the policy.

### **Clarifications and Corrections**

FCIC is deleting obsolete language in paragraphs (c) through (f) from the preamble of the CCIP Basic Provisions (§ 457.8). In a rule published on March 30, 2010 at 75 FR 15777, FCIC added paragraphs (c) through (f) to the CCIP Basic Provisions (§ 457.8) to explain how the producer's active policy transitioned to the new plans of insurance when FCIC transitioned from Crop Revenue Coverage, Revenue Assurance, Income Protection, and Indexed Income Protection to Revenue Protection and Yield Protection plans of insurance. That language is no longer needed because all policies have transitioned to the new plans of insurance.

FCIC is adding language in the policy to be more consistent with procedure language. The policy now provides clarity regarding the impact of different production methods on a producer's Actual Production History (APH) yield, in section 3(h)(3) of the CCIP Basic Provisions (§ 457.8). The previous policy language was in a single large paragraph that generated confusion on which adjustment methods were applicable. The change breaks up the paragraph into more user-friendly paragraphs for clarity. If the approved APH yield needs to be adjusted because a producer changes the production method used on the acreage being insured, the adjustment needs to be the lower of: 1) the approved APH yield for the APH database; 2) the average of approved APH yields

from other APH databases where the production method was carried out; or 3) the applicable county transitional-yield if the production method has not been carried out on other APH databases.

FCIC is replacing the phrase “growing season” with “leaf year.” This changes the wording to be consistent with how the information is shown in the actuarial documents.

This change is being made in the following Crop Provisions:

- Arizona-California Citrus Crop Insurance Provisions (7 CFR 457.121);
- California Avocado Crop Insurance Provisions (7 CFR 457.175);
- Cranberry Crop Insurance Provisions (7 CFR 457.132);
- Florida Avocado Crop Insurance Provisions (7 CFR 457.173);
- Macadamia Nut Crop Insurance Provisions (7 CFR 457.131);
- Peach Crop Insurance Provisions (7 CFR 457.153);
- Prune Crop Insurance Provisions (7 CFR 457.133);
- Stonefruit Crop Insurance Provisions (7 CFR 457.159); and
- Table Grape Crop Insurance Provisions (7 CFR 457.149).

FCIC is clarifying that the minimum age or minimum production requirement is not waived by a written agreement, but rather if “otherwise allowed by the Special Provisions.” This change clarifies the producer’s requirement and provides transparency in identifying the location of their requirements. This change is being made in the following Crop Provisions:

- Arizona-California Citrus Crop Insurance Provisions (7 CFR 457.121);
- Cranberry Crop Insurance Provisions (7 CFR 457.132);
- Macadamia Nut Crop Insurance Provisions (7 CFR 457.131);
- Peach Crop Insurance Provisions (7 CFR 457.153);
- Pear Crop Insurance Provisions (7 CFR 457.111);
- Stonefruit Crop Insurance Provisions (7 CFR 457.159); and

- Table Grape Crop Insurance Provisions (7 CFR 457.149).

FCIC is clarifying insurability requirements in the Pecan Revenue Crop Insurance Provisions (7 CFR 457.167). The minimum production requirement (600 pounds of pecans in-shell per acre in one of the previous 4 crop years) in paragraph 8(d) is unchanged. The minimum production requirement can only be waived by written agreement. There are published procedures on how written agreements can be requested, reviewed, and approved. The clarification ensures the Crop Provisions is consistent with these procedures, specifically that an AIP cannot unilaterally approve the written agreement. The minimum continuous acreage requirement (at least one contiguous acre) in paragraph 8(f) remains, but exceptions to the requirement are now explicitly listed in the Special Provisions, rather than requiring a request, review, and approval of a written agreement.

FCIC is clarifying that the definition for “interplanted” overrides the definition in the CCIP Basic Provisions, by adding the statement, “In lieu of the definition contained in section 1 of the Basic Provisions” prior to the description. Since the CCIP Basic Provisions and the Crop Provisions are separate components of the same crop insurance policy, adding the explicit statement, “in lieu of,” clarifies that the Crop Provisions definitions is intended to replace and override the definition in the CCIP Basic Provisions. It will provide clear use of the definition and its application to the individual Crop Provisions. This change will be made in the following Crop Provisions:

- Arizona-California Citrus Crop Insurance Provisions (7 CFR 457.121);
- California Avocado Crop Insurance Provisions (7 CFR 457.175);
- Macadamia Nut Crop Insurance Provisions (7 CFR 457.131);
- Peach Crop Insurance Provisions (7 CFR 457.153);
- Pear Crop Insurance Provisions (7 CFR 457.111)
- Pecan Revenue Crop Insurance Provisions (7 CFR 457.167);

- Prune Crop Insurance Provisions (7 CFR 457.133);
- Stonefruit Crop Insurance Provisions (7 CFR 457.159); and
- Table Grape Crop Insurance Provisions (7 CFR 457.149).

FCIC is clarifying that the definition for “production guarantee” in the Onion Crop Insurance Provisions (7 CFR 457.135) overrides the definition in the CCIP Basic Provisions, by adding the statement “In lieu of the definition contained in section 1 of the Basic Provisions” prior to the description. It will clarify the use of the definition and its application to the Onion Crop Insurance Provisions.

FCIC is replacing the term “FSA farm serial number” with the term “FSA farm number,” because the term “FSA farm serial number” is no longer used. A similar change was already implemented in the CCIP Basic Provisions in 2017 when the definition was changed to remove the word “serial.” This change will be made in the following Crop Provisions:

- Arizona-California Citrus Crop Insurance Provisions (7 CFR 457.121);
- Cranberry Crop Insurance Provisions (7 CFR 457.132);
- Florida Avocado Crop Insurance Provisions (7 CFR 457.173);
- Macadamia Nut Crop Insurance Provisions (7 CFR 457.131);
- Prune Crop Insurance Provisions (7 CFR 457.133);
- Stonefruit Crop Insurance Provisions (7 CFR 457.159); and
- Table Grape Crop Insurance Provisions (7 CFR 457.149).

FCIC is correcting the location of certain information (for example, price elections and fresh fruit factors) by replacing “Special Provisions” with “actuarial documents.” This change will be made in the following Crop Provisions:

- Cabbage Crop Insurance Provisions (7 CFR 457.171);
- Florida Avocado Crop Insurance Provisions (7 CFR 457.173);
- Fresh Market Pepper Crop Insurance Provisions (7 CFR 457.148);

- Fresh Market Sweet Corn Crop Insurance Provisions (7 CFR 457.129);
- Fresh Market Tomato Dollar Plan Crop Insurance Provisions (7 CFR 457.139);
- Guaranteed Production Plan of Fresh Market Tomato Crop Insurance Provisions (7 CFR 457.128);
- Macadamia Nut Crop Insurance Provisions (7 CFR 457.131);
- Onion Crop Insurance Provisions (7 CFR 457.135);
- Peach Crop Insurance Provisions (7 CFR 457.153);
- Prune Crop Insurance Provisions (7 CFR 457.133); and
- Texas Citrus Crop Insurance Provisions (7 CFR 457.119).

FCIC is updating prices and yields in settlement of claim examples so they are more reflective of current values and potential indemnities. This change will be made in the following Crop Provisions:

- Blueberry Crop Insurance Provisions (7 CFR 457.166);
- Forage Production Crop Insurance Provisions (7 CFR 457.117);
- Fresh Market Sweet Corn Crop Insurance Provisions (7 CFR 457.129);
- Onion Crop Insurance Provisions (7 CFR 457.135);
- Prune Crop Insurance Provisions (7 CFR 457.133); and
- Stonefruit Crop Insurance Provisions (7 CFR 457.159).

In addition, FCIC is updating years used in examples in the following Crop Provisions to be more current:

- Arizona-California Citrus Fruit Crop Insurance Provisions (7 CFR 457.121); and
- Macadamia Nut Crop Insurance Provisions (7 CFR 457.131).

FCIC is clarifying how coverage level impacts the production guarantee in the settlement of a claim examples, by showing the calculation of coverage level multiplied

by the approved yield equals the production guarantee in Step 1 of the example. The remaining steps in the settlement of the claim examples continue to use the production guarantee. This change will be made in the following Crop Provisions:

- Prune Crop Insurance Provisions (7 CFR 457.133); and
- Stonefruit Crop Insurance Provisions (7 CFR 457.159).

FCIC is clarifying where the settlement of claim example begins in the Macadamia Nut Crop Insurance Provisions (7 CFR 457.131), by inserting “For example” after the introductory text.

FCIC is revising the sub-heading for section 3 to “Insurance Guarantees, Coverage Levels, and Prices” by removing the phrase “for Determining Indemnities” at the end. Removing this phrase will align the sub-heading to match the corresponding section in the CCIP Basic Provisions. It also helps clarify that price is not exclusively used to determine indemnities; it is also used to establish the guarantee and determine the premium due for the producer. This change will be made in the following Crop Provisions:

- Arizona-California Citrus Crop Insurance Provisions (7 CFR 457.121);
- Blueberry Crop Insurance Provisions (7 CFR 457.166)
- Cabbage Crop Insurance Provisions (7 CFR 457.171)
- California Avocado Crop Insurance Provisions (7 CFR 457.175)
- Cranberry Crop Insurance Provisions (7 CFR 457.132)
- Florida Avocado Crop Insurance Provisions (7 CFR 457.173)
- Forage Production Crop Insurance Provisions (7 CFR 457.117)
- Guaranteed Production Plan of Fresh Market Tomato Crop Insurance Provisions (7 CFR 457.128)
- Macadamia Nut Crop Insurance Provisions (7 CFR 457.131)
- Onion Crop Insurance Provisions (7 CFR 457.135)

- Peach Crop Insurance Provisions (7 CFR 457.153)
- Pecan Revenue Crop Insurance Provisions (7 CFR 457.167)
- Pear Crop Insurance Provisions (7 CFR 457.111)
- Prune Crop Insurance Provisions (7 CFR 457.133)
- Stonefruit Crop Insurance Provisions (7 CFR 457.159)
- Table Grape Crop Insurance Provisions (7 CFR 457.149)
- Texas Citrus Crop Insurance Provisions (7 CFR 457.119)

FCIC is correcting the dates, states, and counties associated with the contract change dates, the cancellation and termination dates, and end of insurance period dates, where necessary, to match current coverage areas and dates in the actuarial documents. This change will specify the states and counties that currently have coverage available for the following Crop Provisions:

- Cabbage Crop Insurance Provisions (7 CFR 457.171);
- Fresh Market Sweet Corn Crop Insurance Provisions (7 CFR 457.129);
- Guaranteed Production Plan of Fresh Market Tomato Crop Insurance Provisions (7 CFR 457.128); and
- Onion Crop Insurance Provisions (7 CFR 457.135).

FCIC is updating the effective year to show the year that the changes in the Crop Provision will apply. This change will be made in the introductory paragraph of the following Crop Provisions:

- Arizona-California Citrus Fruit Crop Insurance Provisions (7 CFR 457.121);
- Blueberry Crop Insurance Provisions (7 CFR 457.166);
- Cabbage Crop Insurance Provisions (7 CFR 457.171);
- California Avocado Crop Insurance Provisions (7 CFR 457.175);
- Cranberry Crop Insurance Provisions (7 CFR 457.132);

- Florida Avocado Crop Insurance Provisions (7 CFR 457.173);
- Forage Production Crop Insurance Provisions (7 CFR 457.117);
- Fresh Market Pepper Crop Insurance Provisions (7 CFR 457.148);
- Fresh Market Sweet Corn Crop Insurance Provisions (7 CFR 457.129);
- Fresh Market Tomato (dollar plan) Crop Insurance Provisions (7 CFR 457.139);
- Guaranteed Production Plan of Fresh Market Tomato Crop Insurance Provisions (7 CFR 457.128);
- Macadamia Nut Crop Insurance Provisions (7 CFR 457.131);
- Onion Crop Insurance Provisions (7 CFR 457.135);
- Peach Crop Insurance Provisions (7 CFR 457.153);
- Pear Crop Insurance Provisions (7 CFR 457.111);
- Pecan Revenue Crop Insurance Provisions (7 CFR 457.167);
- Prune Crop Insurance Provisions (7 CFR 457.133);
- Stonefruit Crop Insurance Provisions (7 CFR 457.159);
- Table Grape Crop Insurance Provisions (7 CFR 457.149); and
- Texas Citrus Crop Insurance Provisions (7 CFR 457.119).

FCIC is clarifying “agree in writing” by replacing with the defined term “written agreement” in the Onion Crop Insurance Provisions (7 CFR 457.135). “Written agreement” is specifically defined in the CCIP Basic Provisions. The use of “agree in writing” was intended to mean that the producer must have a written agreement. However, it has generated questions in the past because it had a different wording than the definition.

FCIC is removing a duplicate paragraph from section 7 in the Peach Crop Insurance Provisions (7 CFR 457.153).



In the Peach Crop Insurance Provisions (7 CFR 457.153), FCIC is clarifying that a producer may choose optional units for the fresh and processing intended uses, but not further divide optional units by the types of peaches specified in the Special Provisions. An optional unit is a type of crop insurance unit. Crop insurance units are an identifiable, insurable segment of land on which an insurable crop is grown, and separate production records have been kept. Insuring by optional units, with fresh peaches and processing peaches insured on different optional units, is the producer's choice. In the Special Provisions, the fresh and processing intended uses are further classified by types of peaches, but the Special Provisions are silent on whether a producer can choose separate optional units for different types of peaches, which has led to questions from producers and AIPs. The further classification of types allows for distinct pricing, rates, and yields, but were not intended to allow separate optional units. Removing "as specified in the Special Provisions" clarifies the availability of optional units to "fresh and processing" intended uses only.

In the Fresh Market Pepper Crop Insurance Provisions (7 CFR 457.148) and the Fresh Market Sweet Corn Crop Insurance Provisions (7 CFR 457.129), FCIC is clarifying the definition of "planted acreage" by adding the section reference number in the definition (that is, adding "section 1 of").

In the Prune Crop Insurance Provisions (7 CFR 457.133), FCIC is clarifying the definition for "standard prunes" by specifically referencing the U.S. Standards for Grades of Dried Prunes.

In the Macadamia Nut Crop Insurance Provisions (7 CFR 457.131), FCIC is correcting the order of the definitions by redesignating the definition of "floaters" in alphabetical order.

In the Florida Avocado Crop Insurance Provisions (7 CFR 457.173), FCIC is adding "mid-season" avocados to the definition of type to align with the avocado industry

designations for early, mid, and late-season avocados more appropriately. This change will allow producers to better align the mid-season varieties' insurance coverage with growing practices and the harvest period.

In the Fresh Market Pepper Crop Insurance Provisions (7 CFR 457.148), FCIC is correcting the reference of section 7 of the Basic Provisions (that is, adding “and Administrative Fees”) to complete the full name of the section title to match how it appears in the CCIP Basic Provisions.

FCIC is amending the Blueberry Crop Insurance Provisions (7 CFR 457.166). Specifically, changing “became” to “become” in section 6 paragraph (a)(2)(i) and changing the word “for” to lowercase in the section title.

FCIC is changing non-primary words to lowercase and removing periods from the end of section headings for consistency across provisions. This change will be made in the following Crop Provisions:

- Blueberry Crop Insurance Provisions (7 CFR 457.166);
- Cabbage Crop Insurance Provisions (7 CFR 457.171);
- Fresh Market Tomato (dollar plan) Crop Insurance Provisions (7 CFR 457.139);
- Onion Crop Insurance Provisions (7 CFR 457.135);
- Peach Crop Insurance Provisions (7 CFR 457.153);
- Pecan Revenue Crop Insurance Provisions (7 CFR 457.167);
- Stonefruit Crop Insurance Provisions (7 CFR 457.159); and
- Table Grape Crop Insurance Provisions (7 CFR 457.149).

In the Fresh Market Sweet Corn Crop Insurance Provisions (7 CFR 457.129), FCIC is correcting the spelling of “totaling” in section 14 paragraph (b)(3).

In the Pecan Revenue Crop Insurance Provisions (7 CFR 457.167), FCIC is correcting the spelling of “notwithstanding.”

In the Guaranteed Production Plan of Fresh Market Tomato Crop Insurance Provisions (7 CFR 457.128), FCIC is correcting the spelling of “Guarantee” to “Guaranteed.”

In the Peach Crop Insurance Provisions (7 CFR 457.153), FCIC is changing “allow” to “provide” for consistency with the actuarial documents. In addition, FCIC is adding the word “the” preceding “trees” for grammatical sufficiency and readability. The reference is specific to “the” trees bearing insured peaches under the policy.

FCIC is correcting punctuation in bulleted lists by adding a semi colon or adding “and” after the semi-colon. This change will be made in the following Crop Provisions:

- Fresh Market Pepper Crop Insurance Provisions (7 CFR 457.148);
- Fresh Market Sweet Corn Crop Insurance Provisions (7 CFR 457.129);  
and
- Fresh Market Tomato (dollar plan) Crop Insurance Provisions (7 CFR 457.139).

In the Pecan Revenue Crop Insurance Provisions (7 CFR 457.167), FCIC is changing “reject” to “not accept” in two places, referring to how the AIP processes a producer’s submitted application. The Pecan Revenue Crop Insurance Provisions refer to section 2 of the CCIP Basic Provisions, which provide the grounds for an application to not be accepted, but the word “reject” does not appear in the CCIP Basic Provisions. In the same paragraph of the Pecan Revenue Crop Insurance Provisions, FCIC is removing the phrase “of the application,” because it was incorrectly listed as appearing in section 2 of the CCIP Basic Provisions.

FCIC is removing the definition of “adapted” from the Table Grape Crop Insurance Provisions (7 CFR 457.149). The definition referred to a list of grape varieties by county recognized by National Institute of Food and Agriculture as compatible with agronomic and weather conditions in the county. However, the National Institute of

Food and Agriculture does not maintain a list of adapted grape varieties. Other federally reinsured Crop Provisions do not define “adapted.” The plain meaning of the word has been sufficient in other Crop Provisions without generating questions. Therefore, the definition is removed in the Table Grape Crop Insurance Provisions.

FCIC is removing repetitive parenthetical titles that reference the CCIP Basic Provisions for consistency. For example, this change deletes the parenthetical title (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) in the sentence “In addition to the requirements of section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions.” In other Crop Provisions, the parenthetical title does not appear. This change will make Crop Provisions more consistent. This change will remove parenthetical titles in the following Crop Provisions:

- Cranberry Crop Insurance Provisions (7 CFR 457.132); and
- Guaranteed Production Plan of Fresh Market Tomato Crop Insurance Provisions (7 CFR 457.128).

The CCIP Basic Provisions includes the priority order of policy provisions. Therefore, in the following Crop Provisions, FCIC is removing the introductory sentence explaining the order of priority of policy provisions because it is duplicative of the same order of priority included in the CCIP Basic Provisions:

- Blueberry Crop Insurance Provisions (7 CFR 457.166);
- Cranberry Crop Insurance Provisions (7 CFR 457.132);
- Fresh Market Pepper Crop Insurance Provisions (7 CFR 457.148); and
- Guaranteed Production Plan of Fresh Market Tomato Crop Insurance Provisions (7 CFR 457.128).

In the Stonefruit Crop Insurance Provisions (7 CFR 457.159), in section 3, FCIC is adding paragraph (d). The new paragraph clarifies that a producer may not increase

their elected or assigned coverage level or the ratio of their price election to the maximum price election if a cause of loss that could or would reduce the yield of the insured crop is evident prior to the time that the producer requests the increase. These changes to section 3 were proposed in the Common Crop Insurance Policy Basic Provisions; Stonefruit Crop Provisions proposed rule, published in the *Federal Register* on November 24, 2009 (74 FR 61286-61289). The change in the Common Crop Insurance Regulations; Stonefruit Crop Insurance Provisions final rule, published in the *Federal Register* on July 29, 2010 (75 FR 44709-44718), was not completed in the Code of Federal Regulations. Further, a technical correction for the change to the Stonefruit Crop Insurance Provisions was published in the *Federal Register* on September 27, 2010 (75 FR 59057-59058). The intended change was not completed correctly. This rule is making the required technical corrections to make that change now.

#### **Effective Date, Notice and Comment, and Exemptions**

The Administrative Procedure Act (APA, 5 U.S.C. 553) provides that the notice and comment and 30-day delay in the effective date provisions do not apply when the rule involves specified actions, including matters relating to contracts. This rule governs contracts for crop insurance policies and therefore falls within that exemption.

This rule is exempt from the regulatory analysis requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996. The requirements for the regulatory flexibility analysis in 5 U.S.C. 603 and 604 are specifically tied to the requirement for a proposed rule under 5 U.S.C. 553 or any other law; in addition, the definition of rule in 5 U.S.C. 601 is tied to the publication of a proposed rule.

For major rules, the Congressional Review Act requires a delay of the effective date of 60 days after publication to allow for Congressional review. This rule is not a major rule under the Congressional Review Act, as defined by 5 U.S.C. 804(2).

Therefore, this final rule is effective on the date of publication in the *Federal Register*.

Although not required by APA or any other law, FCIC has chosen to request comments on this rule.

### **Executive Orders 12866 and 13563**

Executive Order 12866, “Regulatory Planning and Review,” and Executive Order 13563, “Improving Regulation and Regulatory Review,” direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity).

Executive Order 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The requirements in Executive Orders 12866 and 13563 for the analysis of costs and benefits apply to rules that are determined to be significant or economically significant.

The Office of Management and Budget (OMB) has designated this rule as not significant under Executive Order 12866, “Regulatory Planning and Review,” and therefore, OMB has not reviewed this rule and analysis of the costs and benefits is not required under either Executive Order 12866 or 13563.

### **Clarity of the Regulation**

Executive Order 12866, as supplemented by Executive Order 13563, requires each agency to write all rules in plain language. In addition to your substantive comments on this rule, we invite your comments on how to make the rule easier to understand. For example:

- Are the requirements in the rule clearly stated? Are the scope and intent of the rule clear?
- Does the rule contain technical language or jargon that is not clear?
- Is the material logically organized?

- Would changing the grouping or order of sections or adding headings make the rule easier to understand?
- Could we improve clarity by adding tables, lists, or diagrams?
- Would more, but shorter, sections be better? Are there specific sections that are too long or confusing?
- What else could we do to make the rule easier to understand?

## **Environmental Review**

The environmental impacts of this final rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and because USDA will be making the payments to producers, the USDA regulation for compliance with NEPA (7 CFR part 1b). As specified in 7 CFR 1b.4(b)(4), FCIC is categorically excluded from the preparation of an Environmental Analysis or Environmental Impact Statement unless the FCIC Manager (agency head) determines that an action may have a significant environmental effect. The FCIC Manager has determined this rule will not have a significant environmental effect. Therefore, FCIC will not prepare an environmental assessment or environmental impact statement for this action and this rule serves as documentation of the programmatic environmental compliance decision.

## **Executive Order 12988**

This rule has been reviewed under Executive Order 12988, “Civil Justice Reform.” This rule will not preempt State or local laws, regulations, or policies unless they represent an irreconcilable conflict with this rule. Before any judicial actions may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR part 11 are to be exhausted.

## **Executive Order 13175**

This rule has been reviewed in accordance with the requirements of Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments.”

Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

RMA has assessed the impact of this rule on Indian Tribes and determined that this rule does not, to our knowledge, have Tribal implications that require Tribal consultation under EO 13175. The regulation changes do not have Tribal implications that preempt Tribal law and are not expected have a substantial direct effect on one or more Indian Tribes. If a Tribe requests consultation, RMA will work with the USDA Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions and modifications identified in this rule are not expressly mandated by Congress.

## **The Unfunded Mandates Reform Act of 1995**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104-4) requires Federal agencies to assess the effects of their regulatory actions of State, local, and Tribal governments, or the private sector. Agencies generally must prepare a written statement, including cost benefits analysis, for proposed and final rules with Federal mandates that may result in expenditures of \$100 million or more in any 1 year for State, local or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no



Federal mandates, as defined in Title II of UMRA, for State, local, and Tribal governments, or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

### **Federal Assistance Program**

The title and number of the Assistance Listing,<sup>1</sup> to which this rule applies is No. 10.450 – Crop Insurance.

### **Paperwork Reduction Act of 1995**

In accordance with the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, subchapter I), the rule does not change the information collection approved by OMB under control numbers 0563-0053.

### **USDA Non-Discrimination Policy**

In accordance with Federal civil rights law and USDA civil rights regulations and policies, USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family or parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (for example, braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA TARGET Center at (202) 720-2600 or 844-433-2774 (toll-free nationwide). Additionally, program information may be made available in languages other than English. To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form,

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<sup>1</sup>See <https://sam.gov/content/assistance-listings>.

AD-3027, found online at <https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint> and at any USDA office or write a letter addressed to USDA and provide in the letter all the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by mail to: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or email: [OAC@usda.gov](mailto:OAC@usda.gov).

USDA is an equal opportunity provider, employer, and lender.

## **List of Subjects**

### **7 CFR Part 407**

Acreage allotments, Administrative practice and procedure, Barley, Corn, Cotton, Crop insurance, Peanuts, Reporting and recordkeeping requirements, Sorghum, Soybeans, Wheat.

### **7 CFR Part 457**

Acreage allotments, Crop insurance, Reporting and recordkeeping requirements.

For the reasons discussed in the supplementary information, FCIC amends 7 CFR parts 407 and 457, effective for the 2023 and succeeding crop years for crops with a contract change date on or after June 30, 2022, and for the 2024 and succeeding crop years for all other crops, as follows:

## **PART 407 - AREA RISK PROTECTION INSURANCE REGULATIONS**

1. The authority citation for part 407 continues to read as follows:

**Authority:** 7 U.S.C. 1506(l) and 1506(o).

2. Amend § 407.9 by:

- a. In section 1:

- i. Add in alphabetical order definitions for “Farm management record” and “Production record”;

- ii. Revise the definition for “Production report”; and
  - iii. Remove the definition for “Verifiable records” and add the definition for “Verifiable record” in alphabetical order;
- b. In section 8, paragraph (o), remove the phrase “records to support the information on” and add “acceptable production records to support the information you certified on” in its place;
  - c. In section 23:
    - i. Add paragraph (b)(1)(i) and (ii);
    - ii. Remove paragraph (b)(2); and
    - iii. Redesignate paragraph (b)(3) as paragraph (b)(2).

The revisions and additions read as follows:

**§ 407.9 Area Risk Protection Insurance Regulations.**

\* \* \* \* \*

**1. Definitions**

\* \* \* \* \*

*Farm management record.* A contemporaneous record provided by you that documents your actual production recorded at the time of harvest, storing of the crop, or use of the crop for feed, and can be used to substantiate your actual production reported on the production report.

\* \* \* \* \*

*Production record.* A written record that documents your actual production reported on the production report. The record must be an acceptable verifiable record or an acceptable farm management record as authorized by FCIC procedures.

*Production report.* A written report provided by you showing your annual production in accordance with section 8. The report contains yield information for the

current year, including planted acreage and production. This report must be supported by acceptable production records.

\* \* \* \* \*

*Verifiable record.* A contemporaneous record from a disinterested third party that substantiates your actual production reported on the production report. The record must be a document or evidence from a disinterested third party that is accurate and can be validated or verified by us.

\* \* \* \* \*

## 23. Mediation, Arbitration, Appeal, Reconsideration, and Administrative and Judicial Review

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(i) If you disagree with our decision of what constitutes a good farming practice you may request through us that FCIC review our decision. Requests for FCIC review must be made within 30 days of the postmark date on the written notice of the determination regarding good farming practices.

(ii) You may not sue us for our decisions regarding whether good farming practices were used by you. You must request a determination from FCIC of what constitutes a good farming practice before filing any suit against FCIC.

\* \* \* \* \*

## PART 457 - COMMON CROP INSURANCE REGULATIONS

3. The authority citation for part 457 continues to read as follows:

**Authority:** 7 U.S.C. 1506(l), 1506(o).

4. Amend § 457.8 by:

a. In the introductory section, remove paragraphs (c) through (f);

- b. In section 1:
  - i. Add in alphabetical order definitions for “Direct marketing”, “Farm management record”, and “Production record”;
  - ii. Revise the definition for “Production report”; and
  - iii. Remove the definition for “Verifiable records” and add the definition for “Verifiable record” in alphabetical order;
- c. In section 3:
  - i. Revise paragraph (g)(3); and
  - ii. Revise paragraph (h)(3);
- d. In section 6:
  - i. In paragraph (c)(4), remove the word “and”;
  - ii. In paragraph (c)(5), remove the period at the end of the sentence and add “; and” in its place; and
  - iii. Add paragraph (c)(6);
- e. In section 15:
  - i. Revise the section heading;
  - ii. In paragraph (b)(1), remove the words “verifiable records” and add “acceptable verifiable records or acceptable farm management records” in their place; and
  - iii. Revise paragraph (b)(3)(ii);
- f. In section 20, revise paragraph (d)(1); and
- g. Add new section 38.

The revisions and additions read as follows:

**§ 457.8 The application and policy.**

\* \* \* \* \*

\* \* \* \*

## 1. Definitions

\* \* \* \*

*Direct Marketing.* The sale of the insured crop directly to consumers without the intervention of an intermediary such as a wholesaler, retailer, packer, processor, shipper, buyer, or broker. Production records are controlled exclusively by the policyholder. Examples of direct marketing include selling through an on-farm or roadside stand, a farmer's market, or permitting the general public to enter the acreage for the purpose of harvesting or picking all or a portion of the crop. Only the portion of the crop sold directly to consumers will be considered direct marketed.

\* \* \* \*

*Farm management record.* A contemporaneous record provided by you that documents your actual production recorded at the time of harvest, storing of the crop, or use of the crop for feed, and can be used to substantiate your actual production reported on the production report.

\* \* \* \*

*Production record.* A written record that documents your actual production reported on the production report. The record must be an acceptable verifiable record or an acceptable farm management record as authorized by FCIC procedures.

\* \* \* \*

*Production report.* A written report provided by you showing your annual production that will be used by us to determine your yield for insurance purposes in accordance with section 3. The report contains yield information for the previous year(s), including planted acreage and production. This report must be supported by acceptable production records.

\* \* \* \*

*Verifiable record.* A contemporaneous record from a disinterested third party that substantiates your actual production reported on the production report. The record must be a document or evidence from a disinterested third party that is accurate and can be validated or verified by us.

\* \* \* \* \*

### 3. Insurance Guarantees, Coverage Levels, and Prices

\* \* \* \* \*

(g) \* \* \*

(3) If you do not have acceptable production records to support the information you certified on your production report you will receive an assigned yield in accordance with section 3(f)(1) and 7 CFR part 400, subpart G, for the applicable units, determined by us, for crop years that do not have such production records in accordance with FCIC procedures. If the conditions of section 34(b)(3) are not met, you will receive an assigned yield for the applicable basic unit.

\* \* \* \* \*

(h) \* \* \*

(3) To an amount consistent with the production method actually carried out for the crop year if you use a different production method than was previously used and the production method actually carried out is likely to result in a yield lower than the average of your previous actual yields.

(i) The yield will be adjusted to the lower of the:

(A) Approved APH yield for the APH database;

(B) Average of approved APH yields based on your other APH databases where the production method was carried out; or

(C) Applicable county transitional yield for the production method if other such APH databases do not exist.

(ii) You must notify us of changes in your production method by the acreage reporting date. If you fail to notify us, in addition to the reduction of your approved yield described herein, you will be considered to have misreported information and you will be subject to the consequences in section 6(g). For example, for a non-irrigated APH database, your yield is based upon acreage of the crop that is watered once prior to planting, and the crop is not watered prior to planting for the current crop year. Your approved APH yield will be reduced to an amount consistent with the actual production history of your other non-irrigated APH database where the crop has not been watered prior to planting or limited to the non-irrigated transitional yield for the APH database if other such APH databases do not exist.

\* \* \* \* \*

## 6. Report of Acreage

\* \* \* \* \*

(c) \* \* \*

(6) Acknowledgement of your duty to notify us if you intend to direct market your crop or if acceptable verifiable records are required and will not be available. This acknowledgement must also include a signed marketing certification if required in section 38.

\* \* \* \* \*

## 15. Production Included in Determining an Indemnity and Payment Reductions

\* \* \* \* \*

(b) \* \* \*

(3) \* \* \*

(ii) You harvest before the end of the insurance period, your harvested production will be used to adjust the loss, unless:

(A) The applicable crop provisions require an appraisal prior to harvest and you



are unable to prove that additional insured causes of loss occurred after the appraisal or deterioration of the crop can be attributed to insurable causes after the appraisal was completed; then your appraised production will be used to adjust the loss; or

(B) You intend to direct market your crop or your production records will not be from a disinterested third party and we determine an appraisal prior to harvest was necessary and you are unable to prove that additional insured causes of loss occurred after the appraisal or deterioration of the crop can be attributed to insurable causes after the appraisal was completed; then your appraised production will be used to adjust the loss.

\* \* \* \* \*

## 20. Mediation, Arbitration, Appeal, Reconsideration, and Administrative and Judicial Review

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(i) If you disagree with our determination of the amount of assigned production, you must use the arbitration or mediation process contained in this section.

(ii) If you disagree with our decision of what constitutes a good farming practice you may request through us that FCIC review our decision. Requests for FCIC review must be made within 30 days of the postmark date on the written notice of the determination regarding good farming practices.

(iii) You may not sue us for our decisions regarding whether good farming practices were used by you. You must request a determination from FCIC of what constitutes a good farming practice before filing any suit against FCIC.

\* \* \* \* \*

## 38. Direct Marketing and Verifiable Records

(a) You must notify us and complete the marketing certification if you intend to direct market any portion of the crop, or if acceptable verifiable records are required and will not be available. It is your responsibility to assure you meet all the notification and completion requirements to be properly identified as in compliance with the provisions specified in this section.

(b) Notice and certification provisions:

(1) Provide us notice and complete a marketing certification by the acreage reporting date when any portion of the crop will be direct marketed, or if acceptable verifiable records are required and will not be available. If your marketing plans change after the acreage reporting date, then you must provide notice no later than 15 days prior to harvest of the crop. The notice may be made by telephone or in person. If a marketing certification is required, it must be completed in writing within 15 days of the initial notice.

(2) If you fail to notify us timely and complete the marketing certification in accordance with these provisions and if you do not have acceptable verifiable production records to support the information you certified on your production report, you will receive an assigned yield in accordance with 3(g).

(3) We may determine that the marketing certification is not required for your crop based on FCIC procedures.

(4) Appraisals prior to harvest may be conducted for production reporting purposes to be used in conjunction with your acceptable production records.

(i) If we determine an appraisal is necessary, we must notify you.

(ii) If you request an appraisal, you must notify us at least 15 days prior to harvest.

(5) Appraisals conducted for production reporting purposes may not be applicable for establishing total production to count under section 15 when the appraisal

was conducted prior to our receipt of a notice of loss.

5. Amend § 457.111 by:

a. In the undesignated introductory paragraph, remove the year “2015” and add “2023” in its place;

b. In section 1:

i. Remove the definition of “Direct marketing”; and

ii. Revise the definition of “Interplanted”;

c. Revise the section 3 heading;

d. In section 6, revise paragraph (c); and

e. In section 10, revise paragraph (b)(2).

The revisions read as follows:

**§ 457.111 Pear Crop Insurance Provisions.**

\* \* \* \* \*

1. Definitions

\* \* \* \* \*

*Interplanted.* In lieu of the definition contained in section 1 of the Basic Provisions, acreage on which two or more crops are planted in any form of alternating or mixed pattern.

\* \* \* \* \*

3. Insurance Guarantees, Coverage Levels, and Prices

\* \* \* \* \*

6. Insured Crop

\* \* \* \* \*

(c) That are grown on trees that have produced an average of at least five (5) tons of pears per acre in at least one of the four previous crop years, unless otherwise allowed by the Special Provisions; and

\* \* \* \*

## 10. Duties in the Event of Damage or Loss

\* \* \* \*

(b) \* \*

(2) If any portion of your crop will be direct marketed, you must notify us at least 15 calendar days before any production will be harvested. We will conduct an appraisal that will be used to determine your production to count for production that is sold by direct marketing. If damage occurs after this appraisal, we will conduct an additional appraisal. These appraisals, and any acceptable records provided by you, will be used to determine your production to count. Failure to give timely notice that production will be harvested for direct marketing will result in an appraised amount of production to count of not less than the production guarantee per acre if such failure results in our inability to make the required appraisal.

\* \* \* \*

### 6. Amend § 457.117 by:

- a. In the undesignated introductory paragraph, remove the year “2021” and add “2023” in its place;
- b. In section 1, remove the definition of “Direct marketing”;
- c. In section 2, revise the section heading;
- d. In section 9, revise paragraph (b);
- e. In section 10, in paragraph (b), revise Example 1 and Example 2;

The revisions read as follows:

### **§ 457.117 Forage Production Crop Insurance Provisions.**

\* \* \* \*

## 2. Insurance Guarantees, Coverage Levels, and Prices

\* \* \* \*

## 9. Duties in the Event of Damage or Loss

\* \* \* \* \*

(b) If any portion of your crop will be direct marketed, you must notify us at least 15 calendar days before any production will be harvested. Failure to give timely notice that production will be harvested for direct marketing will result in an appraised amount of production to count of not less than the production guarantee per acre if such failure results in our inability to make the required appraisal;

\* \* \* \* \*

## 10. Settlement of Claim

\* \* \* \* \*

(b) \* \* \*

### Example 1

Assume you have a 100 percent share in 100 acres of type A forage in the unit, with a guarantee of 3.0 tons per acre and a price election of \$100 per ton. Due to adverse weather you were only able to harvest 50.0 tons. Your indemnity would be calculated as follows:

1. 100 acres type A  $\times$  3 tons = 300-ton guarantee;

2 & 3. 300 tons  $\times$  \$100 price election = \$30,000 total value guarantee;

4 & 5. 50 tons production to count  $\times$  \$100 price election = \$5,000 total value of production to count;

6. \$30,000 value guarantee - \$5,000 = \$25,000 loss; and

7. \$25,000  $\times$  100 percent share = \$25,000 indemnity payment.

### Example 2

Assume you also have a 100 percent share in 100 acres of type B forage in the same unit, with a guarantee of 1.0 ton per acre and a price election of \$90 per ton. Due to

adverse weather you were only able to harvest 5.0 tons. Your total indemnity for forage production for both types A and B in the same unit would be calculated as follows:

1.  $100 \text{ acres} \times 3 \text{ tons} = 300\text{-ton guarantee for type A}$  and  $100 \text{ acres} \times 1 \text{ ton} = 100\text{-ton guarantee for type B}$ ;

2.  $300\text{-ton guarantee} \times \$100 \text{ price election} = \$30,000$  total value of the guarantee for type A and  $100\text{-ton guarantee} \times \$90 \text{ price election} = \$9,000$  total value of the guarantee for type B;

3.  $\$30,000 + \$9,000 = \$39,000$  total value of the guarantee;

4.  $50 \text{ tons} \times \$100 \text{ price election} = \$5,000$  total value of production to count for type A; and  $5 \text{ tons} \times \$90 \text{ price election} = \$450$  total value of production to count for type B;

5.  $\$5,000 + \$450 = \$5,450$  total value of production to count for types A and B;

6.  $\$39,000 - \$5,450 = \$33,550$  loss; and

7.  $\$33,550 \text{ loss} \times 100 \text{ percent share} = \$33,550$  indemnity payment.

\* \* \* \* \*

7. Amend § 457.119 by:

a. In the undesignated introductory paragraph, remove the year “2018” and add “2024” in its place;

b. In section 1, remove the definition of “Direct marketing”;

c. In section 3, revise the section heading;

d. In section 11, paragraph (b)(1) remove the words “will be sold by” wherever they appear and add “will be harvested for” in their place; and

e. In section 12, paragraph (e), remove the words “Special Provisions” and add in their place “actuarial documents”.

The revisions read as follows:

**§ 457.119 Texas Citrus Crop Insurance Provisions.**

\* \* \* \* \*

### 3. Insurance Guarantees, Coverage Levels, and Prices

\* \* \* \* \*

#### 8. Amend § 457.121 as follows:

a. In the undesignated introductory paragraph, remove the year “2015” and add “2024” in its place;

b. In section 1:

i. Remove the definition of “Direct marketing”; and

ii. Revise the definition of “Interplanted”;

c. In section 2 paragraph (b), remove the word “serial”;

d. In section 3:

i. Revise the section heading;

ii. In paragraph (b):

A. Remove the year “2015” and add “2024” in its place; and

B. Remove the year “2013” and add “2022” in its place;

e. In section 6, revise paragraph (f); and

f. In section 10, in paragraph (b)(1), remove the words “will be sold by”

wherever they appear and add “will be harvested for” in their place each.

The revisions read as follows:

#### **§ 457.121 Arizona-California citrus crop insurance provisions.**

\* \* \* \* \*

#### 1. Definitions

\* \* \* \* \*

*Interplanted.* In lieu of the definition contained in section 1 of the Basic Provisions, acreage on which two or more agricultural commodities are planted in any form of alternating or mixed pattern.

\* \* \* \* \*

### 3. Insurance Guarantees, Coverage Levels, and Prices

\* \* \* \* \*

### 6. Insured Crop

\* \* \* \* \*

(f) That, unless otherwise allowed by the Special Provisions, is grown on trees that have reached at least:

(1) The sixth leaf year; or

(2) The fifth leaf year after topwork or grafting, if topwork or grafting occurs after set out.

\* \* \* \* \*

9. Amend § 457.128 by:

a. Revise the heading immediately following the section heading;

b. In the introductory text between “(Appropriate title for insurance provider)” and Section 1:

i. Remove the words “Guarantee Production Plan” and add “Guaranteed Production Plan” in their place; and

ii. Remove the sentence “If a conflict exists among the policy provisions, the order of priority is as follows: (1) The Catastrophic Risk Protection Endorsement, if applicable; (2) the Special Provisions; (3) these Crop Provisions; and (4) the Basic Provisions with (1) controlling (2), etc.”;

c. In section 1, remove the definition of “Direct marketing”;

d. In section 3:

i. Revise the section heading;

ii. In the introductory text, remove the words “for Determining Indemnities”; and

iii. In paragraph (a), remove the words “Special Provisions” wherever they



appear and add “actuarial documents” in their place each time;

e. In section 4, remove the number “15” and add “31” in its place;

f. In section 5, in the table, remove “January 15” and add “January 31” in their place;

The revisions read as follows:

**§ 457.128 Guaranteed Production Plan of Fresh Market Tomato Crop Insurance Provisions.**

The Guaranteed Production Plan of Fresh Market Tomato Crop Insurance Provisions for the 2023 and succeeding crop years are as follows

\* \* \* \* \*

**3. Insurance Guarantees, Coverage Levels, and Prices**

\* \* \* \* \*

10. Amend § 457.129 by:

a. Revise the undesignated introductory text;

b. In section 1:

i. In the definition of “Allowable costs”, remove the words “Special Provisions” and add “actuarial documents” in their place; and

ii. Remove the definition of “Direct marketing”; and

iii. In the definition of “Minimum value”, remove the words “Special Provisions” and add “actuarial documents” in their place; and

iv. In the definition of “Planted acreage”, remove the words “the Basic Provisions” and add “section 1 of the Basic Provisions” in their place;

c. In section 4, revise the table.

d. In section 5:

i. Revise the section heading;

ii. Revise the undesignated paragraph; and

- iii. Revise the table;
- e. In section 8, in paragraph (b)(3), add the word “and” at the end;
- f. In section 13:
  - i. Revise paragraph (b); and
  - ii. In paragraph (c) remove the words “sold by”; and add “harvested for” in their place;
- g. In section 14:
  - i. In paragraph (b)(3) remove the word “Totalling” and add “Totaling” in its place;
  - ii. In paragraph (b)(5), revise the example; and
- h. In section 16 paragraph (b)(1), remove the words “Special Provisions” and add “actuarial documents” in their place.

The revisions read as follows:

#### **§ 457.129 Fresh Market Sweet Corn Crop Insurance Provisions.**

The fresh market sweet corn crop insurance provisions for the 2023 and succeeding crop years in counties with a contract change date of November 30, and for the 2024 and succeeding crop years in counties with a contract change date of April 30, are as follows:

\* \* \* \*

#### **4. Contract Changes**

\* \* \* \*

| <b>State and county</b>   | <b>Date</b>  |
|---|--------------|
| All Florida counties; and all Georgia counties for which the Special Provisions designate a fall planting period..... | April 30.    |
| Toombs County, Georgia; and all other states .....  | November 30. |
| * * * *   |              |

#### **5. Cancellation and Termination Dates**

In accordance with section 2 of the Basic Provisions, the cancellation and

termination dates are:

| State and county  | Cancellation and termination Dates |
|---|------------------------------------|
| Florida; and all Georgia counties for which the Special Provisions designate a fall planting period ..... | July 31.                           |
| Alabama; and Toombs County, Georgia .....   | February 15.                       |
| All other states .....  | March 15.                          |
| * * * * *   |                                    |

### 13. Duties in the Event of Damage or Loss

\* \* \* \* \*

(b) If any portion of your crop will be direct marketed, you must notify us at least 15 calendar days before any production will be harvested. We will conduct an appraisal that will be used to determine the value of your production to count for production that is sold by direct marketing. If damage occurs after this appraisal, we will conduct an additional appraisal if you notify us that additional damage has occurred. These appraisals, and/or any acceptable production records provided by you, will be used to determine the value of your production to count.

\* \* \* \* \*

### 14. Settlement of a Claim

\* \* \* \* \*

(b) \* \* \*

(5) \* \* \*

For example:

You have a 100 percent share in 65.3 acres of fresh market sweet corn in the unit (15.0 acres in stage 1 and 50.3 acres in the final stage), with a dollar amount of insurance of \$1,000 per acre. The 15.0 acre field was damaged by flood and appraisals of the crop determined there was no potential production to be counted. From the 50.3 acre field, you are only able to harvest 5,627 containers of sweet corn. The net value of all sweet corn production sold (\$3.50 per container) is greater than the Minimum Value per

container (\$3.30). The 5,627 containers sold  $\times$  \$3.50 average net value per container = \$19,694.50 value of your production to count. Your indemnity would be calculated as follows:

(1) 15.0 acres  $\times$  \$1,000 amount of insurance = \$15,000 and 50.3 acres  $\times$  \$1,000 amount of insurance = \$50,300;

(2) \$15,000  $\times$  .65 (percent for stage 1) = \$9,750 and \$50,300  $\times$  1.00 (percent for final stage) = \$50,300;

(3) \$9,750 + \$50,300 = \$60,050 amount of insurance for the unit;

(4) \$60,050 - \$19,694.50 value of production to count = \$40,355.50 loss;

(5) \$40,355.50  $\times$  100 percent share = \$40,355.50 indemnity payment.

\* \* \* \* \*

11. Amend § 457.131 by:

a. In the undesignated introductory paragraph, remove the year “2017” and add “2024” in its place;

b. In section 1:

i. Remove the definition of “Direct marketing”;

ii. Redesignate the definition of “Floaters” in alphabetical order; and

iii. Revise the definition of “Interplanted”;

c. In section 2, remove the word “serial”;

d. In section 3:

i. Revise the section heading;

ii. In paragraph (a), remove of the words “Special Provisions” and add “actuarial documents” in their place each time they occur; and

iii. In paragraph (d), remove the year “2016” and add “2024” in its place and remove the year “2014” and add the year “2022” in its place;

e. In section 6, revise paragraph (d);

f. In section 10, revise paragraph (b); and

g. In section 11, in paragraph (b)(7), add an introductory sentence to the undesignated example.

The revisions read as follows:

**§ 457.131 Macadamia nut crop insurance provisions.**

\* \* \* \*

1. Definitions

\* \* \* \*

*Interplanted.* In lieu of the definition contained in section 1 of the Basic Provisions, acreage on which two or more agricultural commodities are planted in any form of alternating or mixed pattern.

\* \* \* \*

3. Insurance Guarantees, Coverage Levels, and Prices

\* \* \* \*

6. Insured Crop

\* \* \* \*

(d) That are grown on trees that have reached at least the fifth leaf year, including the fifth leaf year after grafting if grafting occurs after set out, unless otherwise allowed by the Special Provisions; and

\* \* \* \*

10. Duties in the Event of Damage or Loss

\* \* \* \*

(b) If any portion of your crop will be direct marketed, you must notify us at least 15 calendar days before any production will be harvested. We will conduct an appraisal that will be used to determine your production to count for production that is sold by direct marketing. If damage occurs after this appraisal, we will conduct an additional

appraisal. These appraisals, and any acceptable records provided by you, will be used to determine your production to count. Failure to give timely notice that production will be harvested for direct marketing will result in an appraised amount of production to count of not less than the production guarantee per acre if such failure results in our inability to make the required appraisal.

\* \* \* \* \*

#### 11. Settlement of Claim

\* \* \* \* \*

(b) \* \* \*

(7) \* \* \*

For example:

\* \* \* \* \*

#### 12. Amend § 457.132 by:

a. In the introductory paragraph before section 1, remove the year “1999” and add “2023” in its place and remove the sentence “If a conflict exists among the policy provisions, the order of priority is as follows: (1) The Catastrophic Risk Protection Endorsement, if applicable; (2) the Special Provisions; (3) these Crop Provisions; and (4) the Basic Provisions with (1) controlling (2), etc.”;

b. In section 2, remove the word “serial”;

c. In section 3:

i. Revise the section heading; and

ii. In the undesignated introductory paragraph and paragraph (b), remove the parenthetical phrase “(Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities)”;

d. In section 4, remove the parenthetical phrase “(Contract Changes)”;

e. In section 5, remove the parenthetical phrase “(Life of Policy, Cancellation,

and Termination)”;

f. In section 6:

i. In the undesignated paragraph, remove the parenthetical phrase “(Insured Crop)”; and

ii. Revise paragraph (d).

g. In section 7, paragraphs (a) and (b), remove the parenthetical phrase “(Insurance Period)”;

h. In section 8:

i. In paragraph (a) remove the parenthetical phrase “(Causes of Loss)”; and

ii. In paragraph (b) remove the parenthetical phrase “(Cause of Loss)”; and

i. In the section 9 undesignated paragraph, remove the parenthetical phrase “(Duties in the Event of Damage or Loss)”.

The revisions read as follows:

**§ 457.132 Cranberry crop insurance provisions.**

\* \* \* \* \*

**3. Insurance Guarantees, Coverage Levels, and Prices**

\* \* \* \* \*

**6. Insured Crop**

\* \* \* \* \*

(d) That are grown on vines that have reached at least the fourth leaf year unless otherwise provided by the Special Provisions.

\* \* \* \* \*

**13. Amend § 457.133 by:**

a. In the undesignated introductory paragraph following the section heading, remove the year “2013” and add “2023” in its place;

b. In section 1:

- i. Remove the definition of “Direct marketing”;
- ii. Revise the definition of “Interplanted”; and
- iii. In the definition of “Standard prunes”, revise paragraph (a);
- c. In section 2, remove the word “serial”;
- d. In section 3:
  - i. Revise the section heading; and
  - ii. In paragraph (a), remove the words “Special Provisions” and add “actuarial documents” in their place;
- e. In section 6, remove the words “growing season after being set out” and add “leaf year” in their place;
- f. In section 10, revise paragraph (b)(2); and
- g. In section 11, in paragraph (b), revise Example 1 and Example 2.

The revisions and additions read as follows:

**§ 457.133 Prune Crop Insurance Provisions.**

\* \* \* \* \*

**1. Definitions**

\* \* \* \* \*

*Interplanted.* In lieu of the definition contained in section 1 of the Basic Provisions, acreage on which two or more crops are planted in any form of alternating or mixed pattern.

\* \* \* \* \*

*Standard prunes.* \* \* \*

(a) That grade “C,” “U.S. Standard,” or better in accordance with the United States Standards for Grades of Dried Prunes; or

\* \* \* \* \*

**3. Insurance Guarantees, Coverage Levels, and Prices**



\* \* \* \*

## 10. Duties in the Event of Damage or Loss

\* \* \* \*

(b) \* \*

(2) If any portion of your crop will be direct marketed, you must notify us at least 15 calendar days before any production will be harvested. We will conduct an appraisal that will be used to determine your production to count for production that is sold by direct marketing or is sold as fresh fruit production. If damage occurs after this appraisal, we will conduct an additional appraisal. These appraisals, and any acceptable records provided by you, will be used to determine your production to count. Failure to give timely notice that production will be harvested for direct marketing or sold as fresh fruit will result in an appraised amount of production to count of not less than the production guarantee per acre if such failure results in our inability to make the required appraisal.

\* \* \* \*

## 11. Settlement of Claim

\* \* \* \*

(b) \* \*

### Example 1:

You select 75 percent coverage level, 100 percent of the price election, and have a 100 percent share in 50.0 acres of type A prunes in the unit. The approved yield is 2.5 tons per acre and your price election is \$1,000 per ton. You harvest 10.0 tons. Your indemnity would be calculated as follows:

(1)  $50.0 \text{ acres} \times 2.5 \text{ tons} \times 0.75 = 93.75\text{-ton production guarantee};$

(2)  $93.75\text{-ton guarantee} \times \$1,000 \text{ price election} = \$93,750 \text{ value of production guarantee};$

(4)  $10.0 \text{ tons} \times \$1,000 \text{ price election} = \$10,000 \text{ value of production to count};$

(6)  $\$93,750 - \$10,000 = \$83,750$  loss; and

(7)  $\$83,750 \times 1.000 \text{ share} = \$83,750$  indemnity payment.

Example 2:

In addition to the information in the first example, you have an additional 50.0 acres of type B prunes with 100 percent share in the same unit. The approved yield is 2.0 tons per acre and the price election is \$900 per ton. You harvest 5.0 tons. Your total indemnity for both types A and B would be calculated as follows:

(1)  $50.0 \text{ acres} \times 2.5 \text{ tons} \times 0.75 = 93.75\text{-ton}$  production guarantee for type A and  $50.0 \text{ acres} \times 2.0 \times 0.75 \text{ tons} = 75.0\text{-ton}$  production guarantee for type B;

(2)  $93.75\text{-ton}$  guarantee  $\times \$1,000$  price election = \$93,750 value of production guarantee for type A and  $75.0\text{-ton}$  guarantee  $\times \$900$  price election = \$67,500 value production guarantee for type B;

(3)  $\$93,750 + \$67,500 = \$161,250$  total value of production guarantee;

(4)  $10.0 \text{ tons} \times \$1,000$  price election = \$10,000 value of production to count for type A and  $5.0 \text{ tons} \times \$900$  price election = \$4,500 value of production to count for type B;

(5)  $\$10,000 + \$4,500 = \$14,500$  total value of production to count;

(6)  $\$161,250 - \$14,500 = \$146,750$  loss; and

(7)  $\$146,750 \text{ loss} \times 1.000 \text{ share} = \$146,750$  indemnity payment.

\* \* \* \* \*

14. Amend § 457.135 by:

a. Revise the undesignated introductory paragraph following the section heading;

b. In section 1:

i. Remove the definition of “Direct marketing”; and

ii. In the definition of “Production guarantee (per acre)”, add introductory text;

c. In section 2, revise the section heading;

- d. In section 3:
  - i. Revise the section heading; and
  - ii. In paragraph (a), remove the words “Special Provisions provide” and add “actuarial documents provide” in their place;
- e. In section 4, revise the section heading;
- f. In section 5:
  - i. Revise the section heading; and
  - ii. Revise the table;
- g. In section 6, revise the section heading;
- h. In section 9, in paragraph (a), remove the words “we agree in writing to insure” and add “a written agreement insures” in their place;
- i. In section 13, revise paragraph (b); and
- j. In section 14, in paragraph (b), revise the example.

The revisions read as follows:

**§ 457.135 Onion crop insurance provisions.**

The Onion Crop Insurance Provisions for the 2023 and succeeding crop years are as follows:

\* \* \* \* \*

**1. Definitions**

\* \* \* \* \*

*Production guarantee (per acre).* In lieu of the definition contained in section 1 of the Basic Provisions, the production guarantee will be determined by stage as follows:

\* \* \* \* \*

**2. Unit Division**

\* \* \* \* \*

**3. Insurance Guarantees, Coverage Levels, and Prices**

\* \* \* \* \*

#### 4. Contract Changes

\* \* \* \* \*

#### 5. Cancellation and Termination Dates

\* \* \* \* \*

| <b>State &amp; County</b>   | <b>Cancellation date</b> | <b>Termination date</b> |
|---|--------------------------|-------------------------|
| Arizona; Georgia; Uvalde County, Texas, and all Texas Counties lying south thereof..... | August 31 .....          | August 31               |
| Umatilla County, Oregon; and Walla Walla County, Washington.....                        | August 31 .....          | September 30            |
| All California Counties, except Lassen, Modoc, and Shasta .....                         | September 30 .....       | September 30            |
| All other states and counties .....   | February 1 .....         | February 1              |

\* \* \* \* \*

#### 6. Report of Acreage

\* \* \* \* \*

#### 13. Duties in the Event of Damage or Loss

\* \* \* \* \*

(b) If any portion of your crop will be direct marketed, you must notify us at least 15 calendar days before any production will be harvested. We will conduct an appraisal that will be used to determine your production to count for production that is sold by direct marketing. If damage occurs after this appraisal, we will conduct an additional appraisal. These appraisals, and any acceptable records provided by you, will be used to determine your production to count. Failure to give timely notice that production will be harvested for direct marketing will result in an appraised amount of production to count that is not less than the production guarantee per acre if such failure results in our inability to make the required appraisal.

\* \* \* \* \*

#### 14. Settlement of Claim

\* \* \* \*

(b) \* \*

For Example:

You have a 100 percent share in 100 acres of a unit of transplanted storage onions with a production guarantee of 200 hundredweight per acre, and you select 100 percent of the price election of \$20.00 per hundredweight. Your crop suffers a covered cause of loss on 25 acres during the second stage which has a second stage production guarantee of 60 percent of the final stage production guarantee which equals 120 hundredweight per acre. The appraised production on the 25 acres was 2,500 hundredweight of onion production. Your harvested onion production on the remaining 75 acres is 16,000 hundredweight of harvested production to count. Your indemnity will be calculated as follows:

(1)  $25 \text{ acres} \times 120 \text{ hundredweight} (200 \times .60) \text{ second stage production guarantee} = 3,000 \text{ hundredweight}$ , and  $75 \text{ acres} \times 200 \text{ hundredweight final stage production guarantee} = 15,000 \text{ hundredweight}$ ;

(2)  $3,000 \text{ hundredweight second stage production guarantee} \times \$20.00 \text{ price election} = \$60,000 \text{ value of second stage production guarantee}$ , and  $15,000 \text{ hundredweight final stage production guarantee} \times \$20.00 \text{ price election} = \$300,000 \text{ value of final stage production guarantee}$ ;

(3)  $\$60,000 \text{ value of second stage production guarantee} + \$300,000 \text{ value of final stage production guarantee} = \$360,000 \text{ total value of production guarantee}$ ;

(4)  $500 \text{ hundredweight second stage production to count (from step 4 of the section 14(c)(1)(iv) example)} \times \$20.00 \text{ price election} = \$10,000 \text{ value of second stage production to count}$ , and  $16,000 \text{ hundredweight final stage production to count} \times \$20.00 \text{ price election} = \$320,000 \text{ value of final stage production to count}$ ;

(5)  $\$10,000 \text{ value of second stage production to count} + \$320,000 \text{ value of final}$

stage production to count = \$330,000 total value of production to count;

(6) \$360,000 total value of production guarantee - \$330,000 total value of production to count = \$30,000 value of loss; and

(7)  $\$30,000 \times 100$  percent share = \$30,000 indemnity payment.

\* \* \* \*

15. Amend § 457.139 by:

a. In the undesignated introductory paragraph following the section heading, remove the year “2013” and add “2024” in its place;

b. In section 1:

i. In the definition of “Allowable cost”, remove the words “Special Provisions” and add “actuarial documents” in their place; and

ii. Revise the definition of “Direct marketing”; and

iii. In the definition of “Minimum value”, remove the words “Special Provisions” and add “actuarial documents” in their place;

c. In section 7, remove the words “Actuarial Table” and add “actuarial documents” in their place;

d. In section 9, paragraph (b)(1), remove the colon behind the word “remains”;

e. In section 14:

i. In paragraph (c)(2)(i), remove the period after the word “Provisions” and add a semi-colon in its place;

ii. In paragraphs (c)(3) and (4), remove the words “Special Provisions” and add “actuarial documents” in their place each time they occur; and

f. In section 16:

i. Revise the section 16 header; and

ii. In paragraphs (b)(1) and (2), remove the words “Special Provisions” and add “actuarial documents” in their place each time they occur.

The revisions read as follows:

**§ 457.139 Fresh Market Tomato Dollar Plan Crop Insurance Provisions.**

\* \* \* \*

1. Definitions

\* \* \* \*

*Direct marketing.* In addition to the definition contained in section 1 of the Basic Provisions, the sale of the insured crop directly to consumers without the intervention of an intermediary including a registered handler.

\* \* \* \*

16. Minimum Value Option

\* \* \* \*

16. Amend § 457.148 by:

a. In the undesignated introductory paragraph following the section heading, remove the year “1999” and add “2024” in its place and remove the sentence “If a conflict exists among the policy provisions, the order of priority is as follows: (1) The Catastrophic Risk Protection Endorsement, if applicable; (2) the Special Provisions; (3) these Crop Provisions; and (4) the Basic Provisions with (1) controlling (2), etc.”;

b. In section 1:

i. Remove the definition of “Direct marketing”; and

ii. In the definition of “Planted acreage” remove the words “the Basic Provisions” and add “section 1 of the Basic Provisions” in their place;

c. Revise section 7;

d. In section 14, in paragraphs (c)(2) and (3), remove the words “Special Provisions” and add “actuarial documents” in their place each time they occur; and

e. In section 16, in paragraphs (b)(1)(i) and (ii), remove the words “Special Provisions” and add “actuarial documents” in their place each time they occur.

The revisions read as follows:

**§ 457.148 Fresh Market Pepper Crop Insurance Provisions.**

\* \* \* \* \*

**7. Annual Premium**

In lieu of the premium amount determinations contained in section 7 (Annual Premium and Administrative Fees) of the Basic Provisions (§ 457.8), the annual premium amount for each cultural practice (for example, fall direct-seeded irrigated) is determined by multiplying the third stage amount of insurance per acre by the premium rate for the cultural practice as established in the actuarial documents, by the insured acreage, by your share at the time coverage begins, and by any applicable premium adjustment factors contained in the actuarial documents.

\* \* \* \* \*

**17. Amend § 457.149 by:**

- a. In the undesignated introductory paragraph following the section heading, remove the year “2010” and add “2023” in its place;
- b. In section 1:
  - i. Remove the definitions of “Adapted” and “Direct marketing”; and
  - ii. Revise the definition of “Interplanted”;
- c. In section 2 paragraph (a)(2) and (b), remove the word “serial”;
- d. In section 3, revise the section heading;
- e. In section 7:
  - i. Revise paragraph (e);
  - ii. Revise paragraph (f); and
- f. In section 11:
  - i. Revise the section heading; and
  - ii. Revise paragraph (b).



The revisions read as follows:

**§ 457.149 Table grape crop insurance provisions.**

\* \* \* \*

1. Definitions

\* \* \* \*

*Interplanted.* In lieu of the definition contained in section 1 of the Basic Provisions, acreage on which two or more crops are planted in any form of alternating or mixed pattern.

\* \* \* \*

3. Insurance Guarantees, Coverage Levels, and Prices

\* \* \* \*

7. Insured Crop

\* \* \* \*

(e) That, after being set out or grafted, have reached the number of leaf years designated by the Special Provisions; and

(f) That have produced an average of at least 150 lugs of table grapes per acre in at least one of the three crop years immediately preceding the insured crop year, unless otherwise allowed by the Special Provisions.

\* \* \* \*

11. Duties in the Event of Damage or Loss

\* \* \* \*

(b) If any portion of your crop will be direct marketed, you must notify us at least 15 calendar days before any production will be harvested. We will conduct an appraisal that will be used to determine your production to count for production that is sold by direct marketing. If damage occurs after this appraisal, we will conduct an additional appraisal. These appraisals, and any acceptable records provided by you, will be used to

determine your production to count. Failure to give timely notice that production will be harvested for direct marketing will result in an appraised amount of production to count of not less than the production guarantee per acre if such failure results in our inability to make the required appraisal.

\* \* \* \* \*

18. Amend § 457.153 by:

- a. In the undesignated introductory paragraph following the section heading, remove the year “2013” and add “2023” in its place;
- b. In section 1,
  - i. Remove the definition of “Direct marketing”;
  - ii. Revise the definition of “Interplanted”;
- c. In section 2:
  - i. Revise the section heading; and
  - ii. In paragraph (b) remove the words “as specified in the Special Provisions”;
- d. In section 3:
  - i. Revise the section heading;
  - ii. Revise paragraph (b);
  - iii. In paragraph (c)(3), remove the words “of trees” and add “of the trees” in their place; and
  - iv. In paragraph (d)(3) remove “12(c)(1)(ii)” and add “12(c)(1)(ii))” in its place;
- e. Revise the section 6 header;
- f. In section 7:
  - i. In paragraph (d), add the word “and” at the end;
  - ii. Revise paragraph (e);
  - iii. Remove paragraph (f); and
- g. In section 11, revise paragraph (b)(2).

The revisions read as follows:

**§ 457.153 Peach Crop Insurance Provisions.**

\* \* \* \* \*

1. Definitions

\* \* \* \* \*

*Interplanted.* In lieu of the definition contained in section 1 of the Basic Provisions, acreage on which two or more crops are planted in any form of alternating or mixed pattern.

\* \* \* \* \*

2. Unit Division

\* \* \* \* \*

3. Insurance Guarantees, Coverage Levels, and Prices

\* \* \* \* \*

(b) You may select only one price election for all the peaches in the county insured under this policy unless the actuarial documents provide different price elections by fresh and processing peaches. If the actuarial documents provide different price elections, you may select a separate price election for all your fresh peaches and for all your processing peaches. If the actuarial documents do not provide different price elections, the price elections you choose for fresh peaches and processing peaches must have the same percentage relationship to the maximum price offered by us for fresh and processing peaches. For example, if you choose 100 percent of the maximum price election for fresh peaches, you must choose 100 percent of the maximum price election for processing peaches.

\* \* \* \* \*

6. Report of Acreage

\* \* \* \* \*

## 7. Insured Crop

\* \* \* \*

(e) That are grown on trees that have reached at least the fourth leaf year, unless otherwise allowed by the Special Provisions.

\* \* \* \*

## 11. Duties in the Event of Damage or Loss

\* \* \* \*

(b) \* \*

(2) If any portion of your crop will be direct marketed, you must notify us at least 15 calendar days before any production will be harvested, unless you have records verifying that the direct market peaches were “weighed and graded” through a packing shed. Failure to give timely notice that production will be harvested for direct marketing will result in an appraised amount of production to count not less than the production guarantee per acre if such failure results in our inability to make the required appraisal.

\* \* \* \*

## 19. Amend § 457.159 by:

a. In the undesignated introductory paragraph following the section heading, remove the year “2011” and add “2023” in its place;

b. In section 1:

i. Remove the definition of “Direct marketing”; and

ii. Revise the definition of “Interplanted”;

c. In section 2, remove the word “serial”;

d. In section 3:

i. Revise the section heading; and

ii. Add paragraph (d);

e. Revise the section 5 heading;

- f. In section 6, revise paragraphs (b)(5) and (6);
- g. In section 10, revise paragraph (b); and
- h. In section 11, revise Scenario 1 and Scenario 2.

The revisions read as follows:

**§ 457.159 Stonefruit crop insurance provisions.**

\* \* \* \* \*

**1. Definitions**

\* \* \* \* \*

*Interplanted.* In lieu of the definition contained in section 1 of the Basic Provisions, acreage on which two or more crops are planted in any form of alternating or mixed pattern.

\* \* \* \* \*

**3. Insurance Guarantees, Coverage Levels, and Prices**

\* \* \* \* \*

(d) You may not increase your elected or assigned coverage level or the ratio of your price election to the maximum price election we offer if a cause of loss that could or would reduce the yield of the insured crop is evident prior to the time that you request the increase.

\* \* \* \* \*

**5. Cancellation and Termination Dates**

\* \* \* \* \*

**6. Insured Crop**

\* \* \* \* \*

(b) \* \* \*

(5) Have produced at least 200 lugs of fresh market production per acre, or at least 2.2 tons per acre for processing crops, in at least one of the four most recent actual production history crop years, unless otherwise allowed by the Special Provisions;

(6) Have reached at least the fifth leaf year, including the fifth leaf year after grafting if grafting occurs after set out, unless otherwise allowed by the Special Provisions; and

\* \* \* \* \*

#### 10. Duties in the Event of Damage or Loss

\* \* \* \* \*

(b) If any portion of your crop will be direct marketed, you must notify us at least 15 calendar days before any production will be harvested. We will conduct an appraisal that will be used to determine your production to count for production that is sold by direct marketing. If damage occurs after this appraisal, we will conduct an additional appraisal. These appraisals, and any acceptable records provided by you, will be used to determine your production to count. Failure to give timely notice that production will be harvested for direct marketing will result in an appraised amount of production to count of not less than the production guarantee per acre if such failure results in our inability to make the required appraisal.

\* \* \* \* \*

#### 11. Settlement of Claim

\* \* \* \* \*

##### Scenario 1:

You select 75 percent coverage level and 100 percent of the price election on 50.0 acres of Type A stonefruit with 100 percent share in the unit. The approved yield is 500.0 lugs per acre and the price election is \$6.00 per lug. You harvest 5,000 lugs. Your indemnity would be calculated as follows:

(1)  $50.0 \text{ acres} \times 500.0 \text{ lugs} \times 0.75 = 18,750\text{-lug production guarantee};$

(2)  $18,750 \text{ lugs} \times \$6.00 \text{ price election} \times 100 \text{ percent of the price election} =$   
\$112,500 value of production guarantee;

(4)  $5,000 \text{ harvested lugs} \times \$6.00 \text{ price election} \times 100 \text{ percent of the price election}$   
 $= \$30,000 \text{ value of production to count};$

(6)  $\$112,500 - \$30,000 = \$82,500 \text{ loss}; \text{ and}$

(7)  $\$82,500 \times 1.000 \text{ share} = \$82,500 \text{ indemnity payment}.$

#### Scenario 2:

In addition to the above information in Scenario 1, you have an additional 50.0 acres of Type B stonefruit with 100 percent share in the unit. The approved yield is 300.0 lugs per acre and the price election is \$4.00 per lug. You harvest 3,000 lugs. Your indemnity would be calculated as follows:

(1)  $50.0 \text{ acres} \times 500.0 \text{ lugs} \times 0.75 \text{ Type A} = 18,750\text{-lug guarantee}; \text{ and } 50.0 \text{ acres}$   
 $\times 300.0 \text{ lugs} \times 0.75 \text{ Type B} = 11,250\text{-lug guarantee};$

(2)  $18,750 \text{ lugs} \times \$6.00 \text{ price election} \times 100 \text{ percent of the price election} =$   
\$112,500 value of guarantee for Type A; and  $11,250 \text{ lugs} \times \$4.00 \text{ price election} \times 100$   
percent of the price election = \$45,000 value of guarantee for Type B;

(3)  $\$112,500 + \$45,000 = \$157,500 \text{ total value of production guarantee};$

(4)  $5,000 \text{ harvested lugs Type A} \times \$6.00 \text{ price election} \times 100 \text{ percent of the price}$   
election = \$30,000 value of production to count; and  $3,000 \text{ harvested lugs Type B} \times$   
 $\$4.00 \text{ price election} \times 100 \text{ percent of the price election} = \$12,000 \text{ value of production to}$   
count;

(5)  $\$30,000 + \$12,000 = \$42,000 \text{ total value of production to count};$

(6)  $\$157,500 - \$42,000 = \$115,500 \text{ total loss}; \text{ and}$

(7)  $\$115,500 \text{ loss} \times 1.000 \text{ share} = \$115,500 \text{ indemnity payment}.$

\* \* \* \* \*

20. Amend § 457.166 by:

- a. In the undesignated introductory paragraph after the section heading, remove the year “2005” and add “2023” in its place and remove the sentence “If a conflict exists among the policy provisions, the order of priority is as follows: (1) The Catastrophic Risk Protection Endorsement, if applicable; (2) the Special Provisions; (3) these Crop Provisions; and (4) the Basic Provisions with (1) controlling (2), etc.”;
- b. In section 1, remove the definition of “Direct marketing”;
- c. Revise the section 3 heading;
- d. In section 6, in paragraph (a)(2)(i), remove the word “became” and add “become” in its place;
- e. In section 9, revise paragraph (a)(3); and
- f. In section 10, in paragraph (b), revise the Example.

The revisions read as follows:

**§ 457.166 Blueberry crop insurance provisions.**

\* \* \* \* \*

**3. Insurance Guarantees, Coverage Levels, and Prices**

\* \* \* \* \*

**9. Duties in the Event of Damage or Loss**

\* \* \* \* \*

(a) \* \* \*

(3) At least 15 calendar days before any production will be harvested if any portion of your crop will be direct marketed. We will conduct an appraisal that will be used to determine your production to count sold by direct marketing. If damage occurs after this appraisal, we will conduct an additional appraisal. These appraisals and acceptable records provided by you will be used to determine your production to count. Failure to give timely notice that production will be harvested for direct marketing will



result in an appraised amount of production to count that is not less than the production guarantee per acre if such failure results in our inability to make the required appraisal.

\* \* \* \*

#### 10. Settlement of Claim

\* \* \* \*

(b) \* \*

#### Example for Section 10(b)

You have 100 percent share in 25 acres of highbush blueberries with a production guarantee of 4,000 pounds per acre and a price election of \$.90 per pound. You are only able to harvest 62,500 total pounds because adverse weather reduced the yield. Your indemnity would be calculated as follows:

- A.  $25 \text{ acres} \times 4,000 \text{ pound production guarantee/acre} = 100,000 \text{ pound total production guarantee};$
- B.  $100,000 \text{ pounds} \times \$ .90 \text{ price election} = \$90,000 \text{ guarantee};$
- C. One type only, so same as (2) above, \$90,000;
- D.  $62,500 \text{ pounds production to count} \times \$ .90 \text{ price election} = \$56,250 \text{ value of production to count};$
- E. One type only, so same as (4) above, \$56,250;
- F.  $\$90,000 - \$56,250 = \$33,750 \text{ loss}; \text{ and}$
- G.  $\$33,750 \times 100 \text{ percent share} = \$33,750 \text{ indemnity payment}.$

#### End of Example

\* \* \* \*

#### 21. Amend § 457.167 by:

- a. In the undesignated introductory paragraph following the section heading, remove the year “2014” and add “2023” in its place;
- b. In section 1:

- i. Revise the definition of “Direct marketing”; and
- ii. Revise the definition of “Interplanted”;
- c. Revise the section 2 heading;
- d. Revise the section 3 heading;
- e. In section 8:
  - i. In paragraph (d), remove the words “we inspect and allow insurance” and add “otherwise allowed” in their place;
  - ii. In paragraph (f), remove the words “allowed by written agreement” and add “otherwise allowed by the Special Provisions” in their place; and
  - iii. In paragraph (g), add “otherwise” after the word “unless”;
- f. In section 10, revise the paragraph (a)(1);
- g. In section 12(b), remove the words “will be sold by” and add “will be harvested for” in their place each time they occur; and
- h. In section 16, remove the words “Not withstanding” and add “Notwithstanding” in its place.

The revisions read as follows:

**§ 457.167 Pecan revenue crop insurance provisions.**

\* \* \* \* \*

**1. Definitions**

\* \* \* \* \*

*Direct marketing.* In addition to the definition contained in section 1 of the Basic Provisions, the sale of the insured crop directly to consumers without the intervention of an intermediary including a sheller. An additional example of direct marketing includes shelling and packing your own pecans.

\* \* \* \* \*

*Interplanted.* In lieu of the definition contained in section 1 of the Basic

Provisions, acreage on which two or more crops are planted in any form of alternating or mixed pattern.

\* \* \* \*

## 2. Unit Division

\* \* \* \*

## 3. Insurance Guarantees and Coverage Levels

\* \* \* \*

## 10. Insurance Period

(a) \* \*

(1) Coverage begins on February 1 of each crop year. However, for the year of application, we will inspect all pecan acreage and will notify you if your application was accepted or not accepted, no later than 30 days after the sales closing date. If we fail to notify you by that date, your application will be accepted unless other grounds exist to not accept the application, as specified in section 2 of the Basic Provisions. You must provide any information that we require for the crop or to determine the condition of the orchard.

\* \* \* \*

## 22. Amend § 457.171 by:

- a. Revise the undesignated introductory paragraph following the section heading;
- b. In section 1, remove the definition of “Direct marketing”;
- c. In section 3:
  - i. Revise the section heading; and
  - ii. In paragraph (a), remove the words “Special Provisions” and add “actuarial documents” in their place each time they appear;
- d. In section 4:
  - i. Revise paragraph (a);

- ii. Revise paragraph (b); and
- iii. In paragraph (c), remove the words “Special Provisions” and add “actuarial documents” in their place;
- e. In section 5 revise the table;
- f. In section 9:
  - i. In paragraph (b)(2)(iii) remove the words “Brooks, Colquitt, Tift, Toombs Counties,”
  - ii. Revise paragraphs (b)(2)(iv) and (v);
  - iii. Revise paragraph (b)(2)(vii);
  - iv. Add the word “and” after the semi-colon in paragraph (b)(2)(ix)(A);
  - v. Remove paragraph (b)(2)(ix)(B);
  - vi. Redesignate paragraph (b)(2)(ix)(C) as paragraph (b)(2)(ix)(B); and
- g. Revise the section 12 heading.

The revisions read as follows:

**§ 457.171 Cabbage Crop Insurance Provisions.**

The Cabbage Crop Insurance Provisions for the 2023 and succeeding crop years in counties with a contract change date of November 30, and for the 2024 and succeeding crop years in counties with a contract change date of April 30, are as follows:

FCIC policies: United States Department of Agriculture, Federal Crop Insurance Corporation.

Reinsured policies: (Appropriate title for insurance provider).

Both FCIC and reinsured policies: Cabbage Crop Insurance Provisions.

\* \* \* \* \*

**3. Insurance Guarantees, Coverage Levels, and Prices**

\* \* \* \* \*

**4. Contract Changes**

\* \* \* \*

(a) April 30 in Florida; Georgia; and Texas;

(b) November 30 in Alaska; Michigan; New Jersey, New York; North Carolina;

Ohio; Oregon; Pennsylvania; Virginia; Washington; and Wisconsin; or

\* \* \* \*

## 5. Cancellation and Termination Dates

\* \* \* \*

| State and counties  | Cancellation and termination dates       |
|---|--|
| Georgia, Texas .....  | July 1                                   |
| Florida .....   | August 15                                |
| Oregon, Washington .....  | February 1                               |
| North Carolina .....  | February 28                              |
| Alaska, Michigan, New Jersey, New York,<br>Ohio, Pennsylvania, Virginia, and Wisconsin .... | March 15                                 |
| All other states and counties .....   | As designated in the Special Provisions. |
| * * * *   |  |

## 9. Insurance Period

\* \* \* \*

(b) \* \*

(2) \* \*

(iv) Michigan, New Jersey, and Ohio:

(A) September 30 for the spring planting period; and

(B) November 25 for the summer planting period;

(v) New York and Pennsylvania: November 25;

\* \* \* \*

(vii) Oregon:

(A) March 1 for all fall Red (Fresh) and Green (Fresh) types; and

(B) December 31 for all other types and planting periods;

\* \* \* \*

## 12. Duties in the Event of Damage or Loss

\* \* \* \*

23. Amend § 457.173 by:

a. In the undesignated introductory paragraph following the section heading, remove the year “2011” and add “2023” in its place;

b. In section 1:

i. Remove the definition of “Direct marketing”; and

ii. In the definition of “Type”, remove the words “Either early varieties or” and add “Early varieties, mid varieties, or” in their place;

c. In section 2, remove the word “serial”;

d. In section 3:

i. Revise the section heading;

ii. In paragraph (a)(3)(i), remove the words “varieties of” and add “varieties and mid varieties of” in their place; and

iii. In paragraph (b), remove the words “Special Provisions” and add “actuarial documents” in their place each time they appear;

e. In section 6, paragraph (b)(1), remove the words “growing season after set out” and add “leaf year” in their place; and

f. In section 10:

i. Revise paragraph (a) introductory text; and

ii. In paragraph (a)(2), remove the words “sold by” and add “harvested for” in their place.

The revisions read as follows:

**§ 457.173 Florida Avocado crop insurance provisions.**

\* \* \* \*

**3. Insurance Guarantees, Coverage Levels, and Prices.**

\* \* \* \*

10. Duties in the Event of Damage or Loss.

In addition to the requirements of section 14 of the Basic Provisions, the following will apply:

(a) If any portion of your crop will be direct marketed, you must notify us at least 15 calendar days before any production will be harvested.

\* \* \* \* \*

24. Amend § 457.175 by:

a. In the undesignated introductory paragraph, remove the year “2020” and add “2024” in its place;

b. In section 1:

i. Remove the definition of “Direct marketing”; and

ii. Revise the definition of “Interplanted”;

c. Revise the section 3 heading;

d. In section 6, in paragraph (b), remove the words “growing season after set out” and add “leaf year” in their place;

e. In section 10, paragraph (a), revise the first sentence; and

f. In section 11, paragraph(b)(3), remove “11(c)” and add “11(c))” in its place.

The revisions read as follows:

**§ 457.175 California avocado crop insurance provisions.**

\* \* \* \* \*

1. Definitions

\* \* \* \* \*

*Interplanted.* In lieu of the definition contained in section 1 of the Basic Provisions, acreage in which two or more crops are planted in any form of an alternating or mixed pattern.

\* \* \* \* \*

### 3. Insurance Guarantees, Coverage Levels, and Prices

\* \* \* \*

### 10. Duties in the Event of Damage or Loss

\* \* \* \*

(a) If any portion of your crop will be direct marketed, you must notify us at least

15 calendar days before any production will be harvested. \* \* \*

\* \* \* \*

Marcia Bunker,  
Manager,  
Federal Crop Insurance Corporation.

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